

[REDACTED]

Dear Applicant:

We have considered your application for recognition of exemption from federal income tax as an organization described in section 501(c)(3) of the Internal Revenue Code.

You were incorporated in [REDACTED] under the laws of the state of [REDACTED]. Your purposes, as stated in your articles of incorporation, are:

"(a) to foster, develop and promote all information needed in establishing direct lineage to [REDACTED]

(b) to foster, develop and promote the legal rights of inheritance of the [REDACTED]

(c) to do all things necessary and incident to promote the general social, benevolent and charitable works of the corporation."

Your articles of incorporation provide that, in the event of dissolution, assets of the corporation "shall be distributed to any nonprofit corporation or governmental agency qualified to receive such distributions under 501(c) of the Internal Revenue Code. . . ."

Your bylaws limit voting membership in your organization to individuals who can prove lineal descent from [REDACTED]. You do not make any efforts to attract members. Your application states that members will receive "qualification in any future inheritance or benefits later obtained." Both your articles and your bylaws refer to the provision of "legal assistance." Your application further states:

[REDACTED]

"This organization was formed to research the genealogical lines of the [REDACTED] was a land baron and oil man in [REDACTED]. Research is to determine rights of inheritance and blood lineage."

Section 501(c)(3) of the Code provides, in part, for the exemption from federal income tax for corporations organized and operated exclusively for charitable or educational purposes, provided no part of the corporation's net earnings inures to the benefit of any private shareholder or individual.

Section 1.501(c)(3)-1(b)(1) of the Income Tax Regulations provides, in part, that an organization is organized exclusively for one or more exempt purposes only if its articles of incorporation limit the purposes of such organization to one or more exempt purposes and do not expressly empower the organization to engage, otherwise than as an insubstantial part of its activities, in activities which in themselves are not in furtherance of one or more exempt purposes. In no case shall an organization be considered to be organized exclusively for one or more exempt purposes, if, by the terms of its articles, the purposes for which such organization is created are broader than the purposes specified in section 501(c)(3).

Section 1.501(c)(3)-1(b)(4) of the regulations provides, in relevant part, that an organization is not organized exclusively for one or more exempt purposes unless its assets are dedicated to an exempt purpose.

Your purposes of establishing lineages and promoting legal rights of inheritance are not charitable or educational purposes within the meaning of section 501(c)(3) of the Code. Your articles empower you to provide legal assistance, presumably for the purpose of establishing inheritance rights. Providing legal assistance in this manner does not further an exempt purpose. Therefore, you do not meet the requirements of section 1.501(c)(3)-1(b)(1) of the regulations.

Upon dissolution, your assets can be distributed to any nonprofit corporation "qualified to receive such distributions under 501(c)." Since distribution of your assets is not limited to organizations described in section 501(c)(3) of the Code, your assets are not dedicated to charitable purposes, and you do not meet the requirements of section 1.501(c)(3)-1(b)(4) of the regulations.

Section 1.501(c)(3)-1(c)(1) of the regulations provides that an organization will be regarded as "operated exclusively" for one or more exempt purposes only if it engages primarily in activities which accomplish one or more of such exempt

purposes specified in section 501(c)(3) of the Code. An organization will not be so regarded if more than an insubstantial part of its activities are not in furtherance of an exempt purpose.

Section 1.501(c)(3)-1(d)(1)(ii) of the regulations provides that an organization is not organized or operated exclusively for one or more exempt purposes unless it serves a public rather than a private interest. Thus, to meet the requirement of this subdivision, it is necessary for an organization to establish that it is not organized or operated for the benefit of private interests such as designated individuals, the creator or his family, shareholders of the organization, or persons controlled, directly or indirectly, by such private interests.

Section 1.501(c)(3)-1(d)(3) of the regulations provides that the term 'educational' includes the instruction or training of the individual for the purpose of developing his capabilities and the instruction of the public on subjects useful to the individual and beneficial to the community.

In Better Business Bureau of Washington, D.C., Inc. v. United States, 326 U.S. 279, the Supreme Court held that the presence of a single non-exempt purpose, if substantial in nature, will destroy a claim for exemption regardless of the number or importance of truly exempt purposes.

In The Callaway Family Association, Inc. v. Commissioner, 71 T.C. 340 (1978), the Tax Court held that a family association formed as a nonprofit organization to study immigration to and migration within the United States by focusing on its own family history and genealogy does not qualify for exemption under section 501(c)(3) of the Code. The association's activities included researching the genealogy of its members for the ultimate purpose of publishing a family history. The court stated that the association's family genealogical activities were not insubstantial and were not in furtherance of an exempt purpose. Rather, they served the private interests of the members. Thus, the association was not operated exclusively for exempt purposes.

Rev. Rul. 80-301, 1980-2 C.B. 180, describes a genealogical society whose membership is open to all interested persons in a particular geographical area. The society provides instruction in genealogical research techniques to both members and the general public through monthly lectures held in a meeting room donated by the community center. It distributes instructional manuals, sponsors tours of historical museums, donates books and other research materials on genealogy to the area's public library, maintains a display board in a community center listing the early pioneers from the area, and conducts a free genealogical speakers bureau.

[REDACTED]

The society does not conduct genealogical research for its members. The ruling holds that the society is educating the individual and the community generally when it carries out these activities. Thus, the society instructs the public on subjects useful to the individual and beneficial to the community within the meaning of section 1.501(c)(3)-1(d)(3) of the regulations. Unlike the organization described in Rev. Rul. 80-302, the society does not conduct research for its members and does not focus its activities on any one family. Rather, its activities include all interested members in the geographical area, and seek to develop a better understanding of the history of the area. Thus, the society is operated for a public rather than a private interest, within the meaning of section 1.501(c)(3)-1(d)(1)(ii) of the regulations. The society therefore qualifies for exemption under section 501(c)(3) of the Code.

Rev. Rul. 80-302, 1980-2 C.B. 182, describes an organization formed to locate, acquire, restore, and preserve all available genealogical records of a particular family. Membership in the organization is limited to lineal descendants of the family. The organization's primary activity is the compilation of genealogical data on its members. This data is recorded and documented, held for use by members, and presented to designated libraries. The ruling concedes that compilation, publication, preservation, and distribution of genealogical data has some educational value to the individual members. However, when these activities are primarily limited to one particular family the activities do not advance education to benefit the public interest within the meaning of section 1.501(c)(3)-1(d)(1)(ii) of the regulations. Any benefit to the general public is merely incidental to the private benefit accruing to family members. Since more than an insubstantial part of the organization's activities are in furtherance of private interests it is not operated exclusively for educational purposes. The organization therefore does not qualify for exemption under section 501(c)(3) of the Code.

Like the organizations described in Rev. Rul. 80-302 and The Callaway Family Association, your membership is limited to descendants of a particular family and your activities are limited to the history of that family. This serves the private interests of your members, and is a substantial nonexempt purpose. Your activities are readily distinguishable from those of the society described in Rev. Rul. 80-301

Moreover, both your articles of incorporation and your application for exemption make reference to inheritance rights and legal assistance. Although you have since stated that "there will be no inheritance," we cannot ignore the plain language of your articles of incorporation. It is evident from that and from the court cases you submitted that there is a long history of litigation involving the heirs of [REDACTED]s. Clearly, at the time your articles of incorporation were drafted and your application completed, it was your intention to pursue the inheritance rights

[REDACTED]

of your members. The pursuit of financial benefits for members of an organization serves private interests more than incidentally and is fundamentally inconsistent with exemption under section 501(c)(3) of the Code.

Accordingly, based on all the facts and circumstances, we conclude that you do not qualify for recognition of exemption under section 501(c)(3) of the Code. Contributions to you are not deductible under section 170 and you are required to file federal income tax returns.

You have the right to protest this ruling if you believe that it is incorrect. To protest, you should submit a statement of your views, with a full explanation of your reasoning. This statement must be submitted within 30 days of the date of this letter and must be signed by one of your officers. You also have a right to a conference in this office after your statement is submitted. If you want a conference, you must request it when you file your protest statement. If you are to be represented by someone who is not one of your officers, he/she must file a proper power of attorney and otherwise qualify under our Conference and Practice Requirements.

If you do not protest this proposed ruling in a timely manner, it will be considered by the Internal Revenue Service as a failure to exhaust available administrative remedies. Section 7428(b)(2) of the Code provides, in part, that a declaratory judgment or decree under this section shall not be issued in any proceeding unless the Tax Court, the Claims Court, or the District Court of the United States for the District of Columbia determines that the organization involved has exhausted administrative remedies available to it within the Internal Revenue Service.

If we do not hear from you within 30 days, this ruling will become final and copies will be forwarded to your key District Director. Thereafter, any questions about your federal income tax status should be addressed to that office. The appropriate State officials will be notified of this action in accordance with section 6104(c) of the Code.

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[REDACTED]

You will expedite our receipt of your reply by using the following address on the envelope:

[REDACTED]

Sincerely yours,

[REDACTED]